

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSE RODRIGUEZ,

Plaintiff,

-against-

ORDER

19-CV-4074 (JS) (AKT)

NASSAU COUNTY CORRECTIONAL CENTER,
CAPT. DONALD KERZNER, CPL. FIELDING,
SGT. JOWORSKI, C.O. BARBARA,

Defendants.

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APPEARANCES

For Plaintiff: Jose Rodriguez, pro se
18007479
Nassau County Correctional Center
100 Carman Avenue
East Meadow, New York 11554

For Defendants: No appearances.

SEYBERT, District Judge:

On July 8, 2019, incarcerated pro se plaintiff Jose Rodriguez ("Plaintiff") filed a Complaint in this Court together with an application to proceed in forma pauperis. By Order dated October 10, 2019 (the "Order"), the application to proceed in forma pauperis was denied without prejudice and with leave to renew within fourteen (14) days from the date of the Order. (See Order, D.E. 9, at 2.) The Court noted that:

Plaintiff's July 23, 2019 letter advised that he was scheduled to be discharged from the Nassau County Correctional Center that week (see Letter, D.E. 7, at ECF p. 1) and, to date, Plaintiff has not updated his address with the Court. Moreover, mail sent to Plaintiff at the Nassau County Correctional Center on

August 5, 2019 and August 6, 2019 in his other case, 19-CV-4489, was returned to the Court and was marked "Return to Sender, and "Discharged." (See 19-CV-4489 at D.E. 6 & 7.) Thus, it is unlikely that Plaintiff will receive this Order. Plaintiff is reminded of his obligation to keep his address current and is cautioned that his failure to do so will lead to dismissal of his Amended Complaint pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute.

(See Order at 2, n.1.) Not surprisingly, the Order, which had been sent to Plaintiff at his address of record, was returned to the Court on November 12, 2019 and was marked "discharged", "return to sender", and "not deliverable as addressed/unable to forward". (See D.E. 10.)

To date, Plaintiff has not updated his address nor has he complied with the Order by completing the application to proceed in forma pauperis. Accordingly, it appears that Plaintiff is no longer interested in pursuing this case and it is thus DISMISSED WITHOUT PREJUDICE pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of the Court is directed to CLOSE this case and to mail a copy of this Order to the pro se Plaintiff at his last known address.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore in forma pauperis status is DENIED for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-

45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

SO ORDERED.

/s/ JOANNA SEYBERT
JOANNA SEYBERT, U.S.D.J.

Dated: January 9, 2020
Central Islip, New York